

ATTACHMENT(S)

Currently, Section 12003(b) (2) of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") grants discretion to the Bureau of Prisons (BOP) to place inmates on home confinement under 18 U.S.C. § 3624(c)(2). The BOP's discretion is guided by criteria listed in memoranda from the Attorney General.

After a comprehensive review of your circumstances, in accordance with the Attorney General's criteria, you are not eligible for home confinement placement. Your current offense is violent and you also have prior convictions for violence.

>>> ~^!"CANALES-VILLALONGO, ~^!MIGUEL A" <71563066@inmatemessage.com> 5/3/2020 7:59 PM >>>
To: Warden, Mr. White
Inmate Work Assignment: Head Ordely

ATTENTION

Please cut and paste the message indicator below into the subject line; only this indicator can be in the subject line.

9a75a793-ca72-4da3-81b6-d9e09b060d75

Your response must come from the departmental mail box. Responses from personal mailboxes WILL NOT be delivered to the inmate.

Inmate Message Below

Electronic Cop-out:

I am respectfully requesting that I be immediately processed for the transfer to home confinement and then immediately transferred to home confinement under both the Cares Act and the Directive of the U.S. attorney, general williams Barr, as set forth in his april 3, 2020, memorandum fo Micheal Carvajal, director of the Federal Bureau of Prisons.

Thank you for your consideration,

Miguel A. Canales

file:///C:/Users/BOP43102/AppData/Local/Temp/XPgrpwise/5EB2A175ALXDOM1ALXP... 5/6/2020

Attachment # 1

**Bureau of Prisons
Health Services
Clinical Encounter**

Inmate Name: CANALES-VILLALONGO, MIGUEL A	Reg #: 71563-066
Date of Birth: 03/09/1988	Sex: M Race: WHITE
Encounter Date: 03/25/2020 09:45	Provider: Phelan, Katherine MOA
	Facility: ALF
	Unit: B01

Preventive Health Visit - Male encounter performed at Health Services.

SUBJECTIVE:

COMPLAINT 1 **Provider:** Phelan, Katherine MOA

Chief Complaint: Preventive Health Visit

Subjective: Patient presents to health services unit for preventative health care screening.

Pain: No

ROS:

Preventive Health

Hypertension screening

Yes: Blood pressure reviewed

Colon Cancer

No: Chronic ulcerative colitis or Crohn's disease, History of adenomas or colon cancer, Inflammatory bowel disease, Family history of colon cancer or adenomas, Fecal Occult Blood x 3 recommended per PHG, Colonoscopy recommended per PH guidelines

Lipid Disorders

No: Diabetes, Existing cardiovascular disease, Family history of elevated lipids, Father/grandfather heart attack or stroke <50, History of hypertension and smoking, Mother/grandmother heart attack or stroke <60

Diabetes

Yes: BMI Calculated (Value: 25.9), First degree relative with diabetes, FBS or HgbA1C recommended per PHG

No: Hyperlipidemia, B/P greater than 135/80 (treated or untreated), Overweight (BMI of 27kg/m or greater)

Aspirin for CVD Risk

No: Diabetes and >40, Diabetes & other risk factors: CVD, HTN, Diabetes & smoking, dyslipidemia, CVD Risk documented in comments

Abdominal Aortic Aneurysm

No: >65 yrs and history of smoking

Hearing

No: Occupational risk

Substance Abuse

No: Alcohol abuse history, Injection/non-injection drug use history, Tobacco abuse, Substance abuse referral PHG

Lifestyle

No: BMI > or equal 30

Inf. Disease Screening

Yes: Bloodborne path & immunization history reviewed, HIV screening offered

No: HCV testing offered, HBsAG indicated, RPR indicated (all female and male as indicated), TB screening reviewed/completed

Vision Screening

No: Visual Acuity (Snellen) testing completed

Nursing Exam

Fall Risk (Morse Scale)

**Bureau of Prisons
Health Services
Health Problems**

Reg #:	Inmate Name:	Axis	Code Type	Code	Diag. Date	Status	Status Date
Reg #: 71563-066	Inmate Name: CANALES-VILLALONGO, MIGUEL A						
Current							
Varicocele, scrotal varices							
08/06/2015 17:08 EST Vallejo-Rodriguez, Orlando MD Grade I		III	ICD-9	456.4	08/06/2015	Current	08/06/2015
Allergic rhinitis, cause unspecified							
06/01/2016 13:56 EST Li, Richard MD		III	ICD-9	477.9	02/10/2015	Current	06/01/2016
06/04/2015 09:36 EST Vallejo-Rodriguez, Orlando MD		III	ICD-9	477.9	02/10/2015	Resolved	06/04/2015
02/10/2015 10:03 EST Chavarin, Robert PA		III	ICD-9	477.9	02/10/2015	Current	02/10/2015
Other abnormal tumor markers							
04/22/2015 10:28 EST Vallejo-Rodriguez, Orlando MD ELEVATED AFP April 16, 2015 - 12.64 ng/ml (0.00-7.00)		III	ICD-9	795.89	04/22/2015	Current	04/22/2015
No Diagnosis							
08/25/2014 10:21 EST Daniels, Beth PsyD/MHU		I	DSM-IV	No Dx	08/25/2014	Current	08/25/2014
Screening for malignant neoplasm of testis							
02/10/2015 10:00 EST Chavarin, Robert PA		III	ICD-9	V76.45	02/10/2015	Current	02/10/2015
Resolved							
Epididymitis and orchitis , unspecified							
02/23/2016 07:20 EST SYSTEM		III	ICD-9	604.90	04/22/2015	Resolved	06/04/2015
06/04/2015 09:36 EST Vallejo-Rodriguez, Orlando MD		III	ICD-9	604.90	04/22/2015	Resolved	06/04/2015
04/22/2015 10:15 EST Vallejo-Rodriguez, Orlando MD		III	ICD-9	604.90	04/22/2015	Current	04/22/2015
Throat pain							
02/23/2016 07:20 EST SYSTEM		III	ICD-9	784.1	02/10/2015	Resolved	06/04/2015
06/04/2015 09:36 EST Vallejo-Rodriguez, Orlando MD		III	ICD-9	784.1	02/10/2015	Resolved	06/04/2015
02/10/2015 10:00 EST Chavarin, Robert PA		III	ICD-9	784.1	02/10/2015	Current	02/10/2015
Cough							
02/23/2016 07:20 EST SYSTEM		III	ICD-9	786.2	02/10/2015	Resolved	06/04/2015
06/04/2015 09:36 EST Vallejo-Rodriguez, Orlando MD		III	ICD-9	786.2	02/10/2015	Resolved	06/04/2015
02/10/2015 10:00 EST Chavarin, Robert PA		III	ICD-9	786.2	02/10/2015	Current	02/10/2015

Inmate Name: CANALES-VILLALONGO, MIGUEL	Sex: M Race: WHITE	Reg #: 71563-066
Date of Birth: 09/03/1988	Provider: Vallejo-Rodriguez,	Facility: GUA
Encounter Date: 06/02/2015 09:26		Unit: B01

Exam:**Appearance**

Yes: Appears Well, Alert and Oriented x 3

No: Appears Distressed

Skin**General**

Yes: Within Normal Limits

Head**General**

Yes: Symmetry of Motor Function, Atraumatic/Normocephalic

Eyes**General**

Yes: PERRLA, Extraocular Movements Intact

Ears**Tympanic Membrane**

Yes: Within Normal Limits

Canal

Yes: Within Normal Limits

Pulmonary**Auscultation**

Yes: Clear to Auscultation

Cardiovascular**Auscultation**

Yes: Regular Rate and Rhythm (RRR), Normal S1 and S2

Abdomen**Palpation**

Yes: Within Normal Limits

Exam Comments

Genital exam deferred - No chaperone available.

ASSESSMENT:

Allergic rhinitis, cause unspecified, 477.9 - Resolved, History/Resolved, Not Assessed

Cough, 786.2 - Resolved, History/Resolved, Not Assessed

Epididymitis and orchitis , unspecified, 604.90 - Resolved, History/Resolved, Not Assessed

Other abnormal tumor markers, 795.89 - Current, Temporary/Acute, Not Improved/Same - SAME - NEED LABS TO EVALUATE

Screening for malignant neoplasm of testis, V76.45 - Current, Temporary/Acute, Not Improved/Same - same

Throat pain, 784.1 - Resolved, History/Resolved, Not Assessed

PLAN:**Schedule:****Activity**

Chronic Care Visit

Date Scheduled

09/04/2015 00:00

Scheduled Provider

Physician 03

Disposition:

Follow-up at Sick Call as Needed

**Bureau of Prisons
Health Services
Clinical Encounter**

Inmate Name: CANALES-VILLALONGO, MIGUEL A	Reg #: 71563-066
Date of Birth: 03/09/1988	Sex: M Race: WHITE
Encounter Date: 06/01/2016 13:47	Provider: Li, Richard MD
	Facility: COM
	Unit: B04

Chronic Care - Chronic Care Clinic encounter performed at Health Services.

SUBJECTIVE:

COMPLAINT 1 **Provider:** Li, Richard MD

Chief Complaint: No Complaint(s)

Subjective: Always has "sinusitis" since childhood, with nasal congestion.

Has hx of hydrocele , but says this testicle doesn't bother him .

Takes no meds.

Family hx noncontributory. his father has unknown cancer.

Pain: No

Seen for clinic(s): General

Removed from clinic(s): General

ROS:

Cardiovascular

General

No: Angina, Exertional dyspnea

Psychiatric

General

No: Mood Impaired, Mood-Down, Anxious

OBJECTIVE:

Temperature:

<u>Date</u>	<u>Time</u>	<u>Fahrenheit</u>	<u>Celsius</u>	<u>Location</u>	<u>Provider</u>
06/01/2016	13:51 COX	97.6	36.4		Li, Richard MD

Pulse:

<u>Date</u>	<u>Time</u>	<u>Rate Per Minute</u>	<u>Location</u>	<u>Rhythm</u>	<u>Provider</u>
06/01/2016	13:51 COX	60			Li, Richard MD

Respirations:

<u>Date</u>	<u>Time</u>	<u>Rate Per Minute</u>	<u>Provider</u>
06/01/2016	13:51 COX	18	Li, Richard MD

Blood Pressure:

<u>Date</u>	<u>Time</u>	<u>Value</u>	<u>Location</u>	<u>Position</u>	<u>Cuff Size</u>	<u>Provider</u>
06/01/2016	13:51 COX	117/79				Li, Richard MD
06/01/2016	13:51 COX	105/63				Li, Richard MD

SaO2:

<u>Date</u>	<u>Time</u>	<u>Value(%)</u>	<u>Air</u>	<u>Provider</u>
06/01/2016	13:51 COX	98		Li, Richard MD

Weight:

<u>Date</u>	<u>Time</u>	<u>Lbs</u>	<u>Kg</u>	<u>Waist Circum.</u>	<u>Provider</u>
06/01/2016	13:51 COX	165.0	74.8		Li, Richard MD

Exam:

Inmate Name: CANALES-VILLALONGO, MIGUEL A
 Date of Birth: 03/09/1988
 Encounter Date: 06/01/2016 13:47

Sex: M	Race: WHITE	Reg #: 71563-066
Provider: Li, Richard MD		Facility: COM
		Unit: B04

Exam:**Diagnostics****Laboratory**

Yes: Results

General**Appearance**

Yes: Appears Well

No: Appears Distressed

Head**General**

Yes: Atraumatic/Normocephalic

Eyes**General**

Yes: PERRLA, Extraocular Movements Intact

Mouth**Mucosa**

Yes: Within Normal Limits

Neck**General**

Yes: Supple

No: Lymphadenopathy

Pulmonary**Auscultation**

Yes: Clear to Auscultation

Cardiovascular**Observation**

No: Tachycardia, Bradycardia

Auscultation

Yes: Regular Rate and Rhythm (RRR), Normal S1 and S2

No: M/R/G

Abdomen**Palpation**

Yes: Soft

No: Tenderness on Palpation

Musculoskeletal**Ankle/Foot/Toes**

No: Edema

Neurologic**Cranial Nerves (CN)**

Yes: Within Normal Limits

Motor System-General

Yes: Normal Muscular Bulk, Normal Muscular Tone

Mental Health**Affect**

Yes: Appropriate

No: Anxious, Sad

ROS Comments

exercise 3 x a week

Inmate Name: CANALES-VILLALONGO, MIGUEL A
 Date of Birth: 03/09/1988 Sex: M Race: WHITE
 Encounter Date: 06/01/2016 13:47 Provider: Li, Richard MD

Reg #: 71563-066
 Facility: COM
 Unit: B04

Exam Comments

CBC, LFT wnl

ASSESSMENT:

Allergic rhinitis, cause unspecified, 477.9 - Current

PLAN:**New Medication Orders:**

<u>Rx#</u>	<u>Medication</u>	<u>Order Date</u>	<u>Prescriber Order</u>
	Fluticasone Propionate Spray	06/01/2016 13:47	1 spray Per Nostril - Two Times a Day x 180 day(s)

Indication: Allergic rhinitis, cause unspecified

Disposition:

Follow-up at Sick Call as Needed

Patient Education Topics:

<u>Date Initiated</u>	<u>Format</u>	<u>Handout/Topic</u>	<u>Provider</u>	<u>Outcome</u>
06/01/2016	Counseling	Compliance - Treatment	Li, Richard	Verbalizes Understanding

Copay Required: No

Cosign Required: No

Telephone/Verbal Order: No

Completed by Li, Richard MD on 06/01/2016 14:04

MIMBW 600.00 * SECURITY/DESIGNATION * 10-20-2015
 PAGE 001 OF 001 * DATA * 13:12:10
 REGNO: 71563-066 NAME: CANALES-VILLALONGO, MIGUEL ORG: DSC
 RC/SEX/AGE: W/M/27 FORM D/T: 10-15-2015/1556 RES: PHILA, PA 19134
 OFFN/CHG.: CNSP TO PWITD AT LEAST 2<3.5KGS COC NEAR A PROTECTED LOC, POSS
 A FA IN FRTHRNC DRG TRFFCK CRM;3:13CR01130(1);157M/8YRS
 CUSTODY..: IN BIL: CITIZENSHIP: UNITED STATES OF AMERICA
 CIM CONS.: USM: FRQ
 JUDGE....: GARCIA-GREGO RECFACL/PGM: STATE OF FLORIDA/DAP/MED EVAL VOLSUR: NO
 VS DT/LOC: MOS REL: 122 SEVERITY: MODERATE
 CHP/CHS/S: 001/00/PSI VIOLENCE: SERIOUS 5-10 YRS ESCAPES.: NONE
 DETAINER.: LOW/LOW MOD AGE: 25-35 EDUC LV: NO HS/GED, NO GED PGM HGC: UNK
 DRUG/ALC.: < 5YRS AGO TOTAL 17 SEC LVL: MEDIUM
 PUB SAFTY: SENTLEN CAR MD/MH: SCRNI/CARE1-MH OMDT REF: NO
 CCM RMKS.: R/MDM.CONSPIRED W/DTO AS A ORGANIZER/LEADER/ENFORCER, POSS FA
 MADE THRTS OF VIOL,RSP FOR 2<3.5KGS COC PR-09'AGG BTTRY(SHOT
 VCTCM W/I TO KILL)JT;PC-12'CRM CNSP TO MANUF/DEL CDS;NO PSYX;
 MEDX ASTHMA, SINUSITIS, LUMP RT.TESTICLE;GAF=UNK
 DESIG: COLEMAN FCI MEDIUM DSC JRW 10-16-2015 RSN: LEVEL MSL:
 MGTV/MVED.:
 DESIG RMKS: JUD REC FOR FACL FOLLOWED. NOTE JUD RECS FOR DAP & MEDICAL
 EVAL/TRMT.

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

CORONAVIRUS TSUNAMI THREATENS PRISON SYSTEM

A week ago, the US had 3,500 confirmed COVID-19 cases, with 40 deaths. A scant seven days later, those numbers have increased by an order of magnitude: the nation has just passed 33,000 confirmed cases including several members of Congress and 413 deaths. And although some local and state governments are releasing thousands of inmates in order to prevent a coronavirus outbreak in crowded jails and prisons, there is no federal move to do so.

As of late last night, the Wall Street Journal reported, the Bureau of Prisons had confirmed three staff and three inmate cases. One of the BOP staff members who is presumed positive worked at a New Hampshire facility and may have been in contact with inmates, a BOP official told CBS News.

But despite inmate rumors to the contrary, the BOP is not using its furlough power, RRC placement, Elderly Offender Home Detention program, or power to recommend compassionate release to speed the release of vulnerable inmates.

Last week, the ACLU called on Attorney General William Barr to "immediately seek sentences consistent with retroactive application of provisions of the First Step Act, including the 851 enhancement, safety valve, and 924(c) "stacking" provisions." The ACLU demanded that BOP increase use of compassionate release for those over 65, have a medical condition; or who suffer from diseases making them vulnerable to the COVID-19 disease, and people within a year of release.

On Thursday, the Federal Public & Community Defenders asked DOJ to direct the BOP to grant the maximum amount of home confinement and to expand its reasons for recommending compassionate release to include risks of coronavirus to "identified persons over the age of 60, as well as persons with diabetes, respiratory problems, and compromised immune systems as facing special danger from COVID-19."

Inmate rumors that the BOP will release minimum security inmates were stoked by reports of a petition posted at the website change.org, demanding that President Trump order all BOP campers be sent to home confinement for the duration of the COVID-19 emergency. As of late Sunday, the petition had over 37,000 signatures. The odds this petition will have any effect whatsoever are zero.

Inmates face substantial risks due to the tight spaces in crowded conditions and strained health-care systems, according to experts. An opinion column in The New York Times last week warned that prisons and jails would be "the epicenter of the pandemic" unless action was taken. A similar column in The Washington Post warned, "Unless government officials act now, the novel coronavirus will spread rapidly in our jails and prisons, endangering not only prisoners and corrections workers but the general public as well."

"We're all headed for some dire consequences," The Wall Street Journal quoted Daniel Vasquez, a former California warden, as saying. "I think it's going to be impossible to stop it from spreading."

CBS News reported Thursday that BOP employees say their lives are in danger after bungled instructions and widespread supply shortages. "The agency is in chaos," CBS quoted Joe Rojas, regional vice president of a correctional officer labor union, as saying. "We are just scrambling to get things in order." At a Florida FCI, BOP staffers told CBS News that officers transferring

inmates lack access to protective gear, soap, and hand sanitizer. Gloves are in short supply, and workers plan to reuse disposable masks.

"Our supply is very limited," Kristan Morgan, vice president of an officers' union, told CBS. "It's kind of like survival of the fittest at this point." She said she spent Tuesday afternoon admitting a busload of 12 new inmates, all of whom had high fevers. The facility's doctor is out sick, and their two nurses and one nurse practitioner are working around the clock. BOP staff have started to call in sick in order to avoid exposure. "They feel really betrayed," said union president Ray Coleman said.

Attachment #3

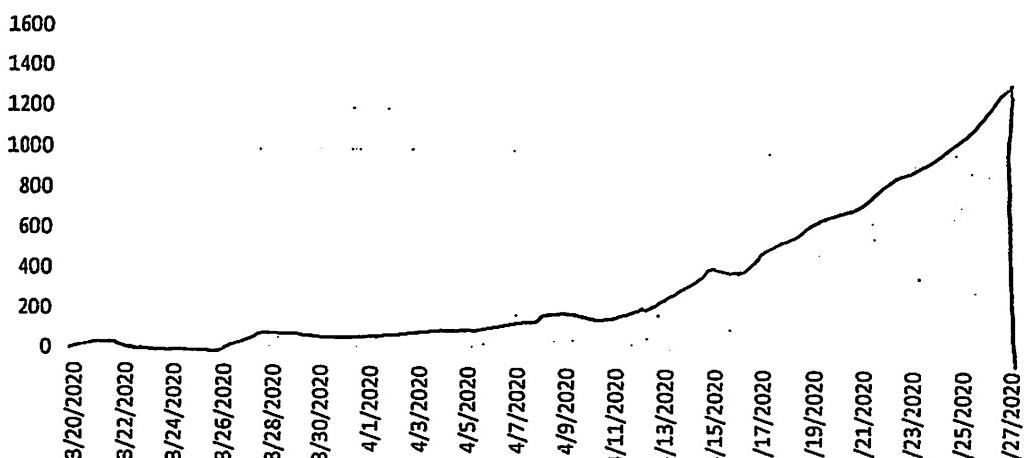
WHAT'S HAPPENING
AT
ALLENWOOD
(AND THE BOP FACILITIES)

Attachment #4

A. *COVID-19 is spreading through BOP at an exponential rate.*

The Court is familiar with the threat posed by COVID-19, particularly in the prison setting, where social distancing and hygiene recommended by the Centers for Disease Control are very difficult to achieve. Data shows that, not surprisingly, the virus is tearing through the BOP at a rate exponentially higher than it is spreading elsewhere in the United States. Indeed, at the time ~~PETTIFEVER~~ reportedly submitted his request for compassionate release with his Allenwood warden (), BOP was reporting 377 inmates and staff were infected (not including those who had been infected but recovered), and 8 people dead. Today, BOP reports 1,948 are infected (not including those who have recovered), and 23 more people have perished, bringing the death count to 31.¹ The universe of those who have died from the virus in custody includes people under the age of 60, and people to whom courts had granted compassionate release but fell ill and died before the orders could be effectuated, and a 30-year old woman who had just given birth.²

Total BOP-Reported Positive Tests for COVID-19 Nationwide (Includes Staff and Inmates)



COVID-19 Rate of Infection for Various Populations

Location	Cases	Population	Infection Rate as Percent of Population	Infections/1,000 People
BOP Population	1,376 ³	178,649 ⁴	7.70	0.7702%
U.S. Prison System	980,008 ⁵	329,574,093 ⁶	2.97	0.2974%
China	83,912 ⁷	1,394,015,977 ⁸	0.06	0.0060%
Compared to Italy	199,414 ⁹	62,402,659 ¹⁰	3.20	0.3196%

BOP has an infection rate x times higher	
Compared to the United States	2.590248
Compared to China	127.9563
Compared to Italy	2.410268

Moreover, there is ample reason to believe that the Bureau of Prisons' numbers probably underestimate the spread within its system overall, and that there very well could be people infected with the virus at FCI Allenwood Low now, notwithstanding the BOP report. First, BOP excludes data from private run prisons.¹¹ Second, BOP's website lists only "lab positive tests," omitting "suspected, presumed positive, or clinically confirmed."¹² Third, the BOP numbers, which show no positive cases at the complex in which *Petitioner* is housed, appear to exclude at least two staff members who have tested positive, according to news sources.¹³ Finally, it is by now well-known that people infected with COVID-19 "may not show symptoms."¹⁴ The only way to be sure how many people in a prison are positive for the virus is to test them all, as some state prison systems have begun to do (causing their numbers to skyrocket), but BOP has not engaged in widespread testing.¹⁵

B. Conditions at Petitioner facility are conducive to spreading the virus.

Moreover, the inherent problem at every prison is that people come and go, and move about, and are packed in close quarters, sharing space and facilities. According to *Petitioner*, he and his fellow inmates at Allenwood Low have been locked down since April 1, like most of the rest of BOP, which will continue this lockdown through at least May 18.¹⁶ But a lockdown is not a panacea. According to *Petitioner*, during

Case 3:13-cr-00130-JAG Document 1291-1 Filed 06/02/20 Page 14 of 18
the "lockdown" in place at Allenwood, inmates are still released for 45 minutes every other day, and in that time, they share showers, furniture, phones, and computers. Neither hand-sanitizer bottles nor disinfectant wipes are made available to the inmates either inside or outside of their cells. Moreover, he is not locked down alone. He shares his room and bathroom facilities with another man, whose actions he cannot control.

In short, the risk to *Petitioner* is real, and it is present now. See *United States v. Harris*, Case No. No. 19-356, 2020 WL 1482342, at *1 (D.D.C. Mar. 26, 2020) (noting that, between the time the government counseled the court to "wait and see" if any positive COVID-19 cases were detected at the D.C. jail, "at least one person at the D.C. jail has tested positive for the virus.").

C. *Petitioner's medical conditions place him at particularly high risk for severe illness or death from COVID-19.*

Everyone incarcerated within BOP is at risk, but *Petitioner* is especially so.

He does not have permission to keep bleach or other disinfecting materials needed to regularly clean and disinfect every part of it to kill the virus, which can live for up to 72 hours on surfaces (not to mention that this is difficult for him to accomplish on his own).¹⁸

In addition, he is predisposed to get very sick if he contracts the virus, as he is diabetic, and suffers from, among other conditions, high blood pressure, and is 60 years old.¹⁹ According to the Centers for Disease Control and Prevention (CDC), diabetes and severe obesity may put individuals at "high-risk for severe illness from COVID-19."²⁰ Indeed, a study of 5,000 hospitalized patients published on a website for the Journal of the American Medical Association showed that 57% had high blood pressure, 41% were obese, and over 1/3 had diabetes. And a group of University of Missouri and Harvard doctors recently reported that data from China showed that the "fatality rate" for diabetics was almost three times the overall fatality rate."²¹

to those over 65, the Intensive Care National Audit and Research Centre in London reports that 45.8% of those between the ages of 50-69 admitted to critical care died in critical care.²²

While some may argue that any defendant (like *any* person) will still be at risk outside of prison, that argument misses the point. COVID-19 is extremely dangerous to *PETITIONER* wherever it is contracted, but the ability to guard against it is greater at home, where *PETITIONER* can truly quarantine, where he can clean his wheelchair properly with help, and where he can shower alone, and freely practice the other hygiene and cleaning recommendations of experts. None of that can happen at the prison, where he shares a room and bathroom facilities with another man, shares a common area, showers, phones and computer terminals with hundreds of men who could be infected without anyone knowing it, and has no access to his own cleaning supplies. Indeed, the CDC's website says: "People in correctional and detention facilities are at greater risk for illnesses, such as COVID-19 because of their close living arrangements with other people."²³ Or, as one district judge put it recently, in the context of granting a motion for compassionate release, prisons are "tinderboxes for infectious disease." *United States v. Rodriguez*, No. 2:03-CR-00271-AB-1, 2020 WL 1627331, at *1 (E.D. Pa. Apr. 1, 2020).

SUPPORTIVE Footnotes

¹ BOP reports data on staff and inmates testing positive every afternoon, at www.bop.gov/coronavirus (last visited 4/29/20). The tables and charts that follow were created by an Assistant Federal Public Defender in New York, using data from www.bop.gov/coronavirus and www.cdc.gov as of April 27, 2020.

² BOP issues press releases regarding each death. See https://www.bop.gov/resources/press_releases.jsp (last visited 4/29/20). On April 1st, a district court in Northern Florida commuted a life sentence for a defendant named Andre Williams to time-served with 12-months home confinement, finding age and medical conditions created significant risk of "life threatening illness should he be exposed to COVID-19 while incarcerated." *U.S. v. Williams*, No. 04-cr-95, at *7 (N.D. Fla. Apr. 1, 2020) (ECF No. 91). Before the order granting release was filed, Mr. Williams caught coronavirus in FMC Butner. He died April 12th. See BOP, Inmate Locator website, available at <https://bit.ly/2XDfgZe>.

³ Includes the number of both BOP inmates and staff who have tested positive for COVID-19. Numbers obtained from www.bop.gov/coronavirus on a daily basis.

⁴ Includes the number of federal inmates in BOP-managed institutions and the BOP staff complement. Numbers obtained from www.bop.gov/coronavirus on a daily basis.

⁵ Numbers obtained on 4/27/2020 at 3:58pm from <https://coronavirus.jhu.edu/map.html>.

⁶ Numbers obtained on 4/27/2020 at 3:57pm from <https://www.census.gov/popclock/>.

⁷ Numbers obtained on 4/27/2020 at 3:58pm from <https://coronavirus.jhu.edu/map.html>.

⁸ Numbers obtained on 4/27/2020 at 3:57pm from <https://www.census.gov/popclock/>.

⁹ Numbers obtained on 4/27/2020 at 3:58pm from <https://coronavirus.jhu.edu/map.html>.

¹⁰ Numbers obtained on 4/27/2020 at 3:57pm from <https://www.census.gov/popclock/>.

¹¹ Dan Kane, "A second federal prison in NC has coronavirus cases, and U.S. officials aren't tracking it," *The News & Observer* (Apr. 19, 2020), available at (reporting positives at private prison, and that BOP spokeswoman confirmed that BOP site does not report positives at privately run prisons), available at <https://www.newsobserver.com/news/local/article242125516.html> (last visited Apr. 21, 2020).

¹² April 10, 2020 Press Release, "Rep. Bass & Nadler Demand Answers, Public Briefings from DOJ on Handling COVID-19 in Federal Prisons & CARES Act Implementation as Infections and Deaths Rise in the System," (Apr. 10, 2020), available at <https://bass.house.gov/media-center/press-releases/rep-bass-nadler-demand-answers-public-briefings-doj-handling-covid-19> (last visited Apr. 13, 2020).

¹³ According to local news reports citing the president of the union representing corrections officers at Allenwood, a resigning staff-member tested positive after his last day, which was March 25, and another staff member was confirmed positive sometime in early April 4. Marcia Moore, "UPDATE Allenwood prison staffer tests positive for COVID-19; limited contacted with staff, prisoners," *The Daily Item* (Apr. 10, 2020) ("Hart did not know specifics, including when the unidentified corrections officer tested positive, whether he was hospitalized or what prison he will be working at next."), available at https://www.dailymail.com/coronavirus/update-allenwood-prison-staffer-tests-positive-for-covid-19-limited-contacted-with-staff-prisoners/article_29b79008-7a93-11ea-91da-9ff36b66bc50.html (last visited 4/27/20); Marcia Moore, "Allenwood prison worker tests positive for COVID-19," *The Daily Item* (Apr. 13, 2020) ("Hart, the president of the union representing corrections officers at U.S. Penitentiary at Allenwood, a maximum-security prison in the same complex where one officer was diagnosed with COVID-19 in March, said staff was notified of the second confirmed diagnosis on Friday."), available at https://www.dailymail.com/news/snyder_county/allenwood-prison-worker-tests-positive-for-covid-19/article_4c7c4484-b39b-5b59-9429-0d4fe2797f71.html (last visited 4/27/2020).

¹⁴ Apoorva Mandavilli, "Infected but Feeling Fine: The Unwitting Coronavirus Spreaders," *New York Times* (March 31, 2020), available at <https://www.nytimes.com/2020/03/31/health/coronavirus-asymptomatic-transmission.html> (last visited Apr. 1, 2020; see also CDC, "How Coronavirus Spreads" webpage, available at https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fprepare%2Ftransmission.html (last visited Apr. 1, 2020)).

¹⁵ See C. Aspinwall, J. Neff, "These Prisons Are Doing Mass Testing For COVID-19—And Finding Mass Infections," *The Marshall Project* (Apr. 24, 2020), available at <https://www.themarshallproject.org/2020/04/24/these-prisons-are-doing-mass-testing-for-covid-19-and-finding-mass-infections> ("Only a handful of states have taken this expansive testing approach so far—but it seems responsible for a spike in reported coronavirus cases behind bars.") (last visited 4/27/20); B. Chappell, "73% of Inmates at an Ohio Prison Test Positive for Coronovirus," National Public Radio (Apr. 20, 2020), available at <https://www.npr.org/sections/coronavirus-live-updates/2020/04/20/83894321/73-of-inmates-at-an-ohio-prison-test-positive-for-coronavirus> (last visited 4/27/20). BOP has recently announced expanded testing, but is deploying it only at "institutions with known COVID-19 cases." See BOP website, "BOP Expands COVID-19 Testing," (Apr. 24, 2020) at https://www.bop.gov/resources/news/20200424_expanded_testing.jsp (last visited 4/27/20).

¹⁶ COVID-19 Action Plan: Phase 5 (March 31, 2020), <https://tinyurl.com/rb9umrx> (last visited Apr. 13, 2020); COVID-19 Action Plan: Phase 6 (Apr. 14, 2020), https://www.bop.gov/resources/news/pdfs/20200414_press_release_action_plan_6.pdf (last visited Apr. 21, 2020).

Technology Users Attention: Precautions for COVID-19, at <https://pva.org/covid-19/> (last visited Apr. 2, 2020); CDC, "People with Disabilities," website at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-disabilities.html> (last visited 4/27/20) (recommending regular disinfecting of wheelchairs); *see also* Numotion.com, "Coronavirus: What to do if you're in a wheelchair," at <https://www.numotion.com/blog/march-2020/coronavirus-what-to-do-if-you-re-in-a-wheelchair> (same, recommending disinfection of all parts of a wheelchair, not just wheels, with bleach) (last visited 4/27/20).

¹⁹ Dkt. No. 281 at 3; Presentence Investigation Report (PSR) ¶¶ 60, 68-72.

²⁰ See CDC, "Groups at Higher Risk for Severe Illness," available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/underlying-conditions.html> (last visited 4/27/20).

²¹ Michael A. Hill, Christos Mantzoros, and James R. Sowers, "Commentary: COVID-19 in patients with diabetes," Metabolism (Mar. 24, 2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7102643/> (last visited Apr. 17, 2020) ("Very recently a summary report from the Chinese Center for Disease Control of 72,314 cases across the country showed an overall fatality rate of 2.3% but this was increased to 10.5% in people with cardiovascular disease and 7.3 and 6%, respectively for people having diabetes or hypertension.").

²² ICNARC report on COVID-19 in critical care, ICNARC at 14 (Apr. 4, 2020), available at <https://www.icnarc.org/Our-Audit/Audits/Cmp/Reports> (last visited 4/29/20).

The World Health Organization (WHO) identifies individuals at highest risk to include those over 60 years of age and those with cardiovascular disease, diabetes, chronic respiratory disease, and cancer. See <https://www.who.int/docs/default-source/coronavirus/situation-reports/20200311-sitrep-51-covid-19.pdf?sfvrsn=1ba62e5710>; see also <https://www.who.int/newsroom/q-a-detail/q-a-coronaviruses>. The WHO further states that the risk of severe disease increases with age starting from around 40 years.

²³ See <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/faq.html> (last visited Apr. 13, 2020). Moreover, locking inmates down is not a solution. Not only is lockdown a highly imperfect preventative measure as inmates are still regularly released to common areas, prolonged lockdown is more punitive than what the Court envisioned for *Pettifor* when the Court imposed its sentence.